

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

TYRONE LEE WILLIAMS, #1757280	§	
VS.	§	CIVIL ACTION NO. 6:12cv273
DIRECTOR, TDCJ-CID	§	

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the petition for a writ of habeas corpus should be dismissed for failure to exhaust state habeas corpus remedies. Petitioner has filed a response, which is construed as objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of Petitioner are without merit.

In order to properly exhaust his state habeas corpus remedies, Petitioner must file an application for a writ of habeas corpus in Smith County using the state habeas corpus form. He must include all of his claims in his state application. The Smith County District Clerk will forward the application to the Texas Court of Criminal Appeals for a decision. In the event that his application is denied by the Texas Court of Criminal Appeals, Petitioner may refile his petition in this Court. He must, however, wait until the Texas Court of Criminal Appeals issues a decision. Nonetheless, at this juncture, Petitioner's claims are unexhausted. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the petition for a writ of habeas corpus is **DISMISSED** without prejudice for failure to exhaust state habeas corpus remedies. A certificate of appealability is **DENIED**. It is finally

ORDERED that all motions not previously ruled on are hereby **DENIED**.

So ORDERED and SIGNED this 30th day of May, 2012.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE